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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,525	08/29/2001	Henry Michael Hadden	431177.80015	4577
23935 7590 07/18/2008 KOPPEL, PATRICK & HEYBL 555 ST. CHARLES DRIVE SUITE 107 THOUSAND OAKS, CA 91360				
EXAMINER SUTTON, ANDREW W				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
07/18/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/941,525

**Applicant(s)**

HADDEN ET AL.

**Examiner**

ANDREW W. SUTTON

**Art Unit**

3765

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34 and 36-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/88)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 3/21/08 have been fully considered but they are not persuasive. The examiner acknowledges that the rejection should not be made on the examiner's feelings, but the examiner asserts that the thermoplastic resin 12 would provide some degree of reshaping and bending as no degree is stated. The wire fabric of Dym would provide be malleable, ductile, and provide structural plasticity, as no degree is stated of the desired properties and these are inherent properties of metal.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34, 38, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dym (US 2,123,275). Dym illustrates in Fig. 9 a brim-reinforcing member 6 comprising a wire fabric 11 with a thermoplastic resin coating 12 the wire fabric 11. Dym does not teach the wire fabric being incorporated into the brim of the hat as shown in Fig. 8 as it only protect the top portion of the crown of the hat. It would have been obvious to one of ordinary skill in the art to add the wire cloth throughout the entire hat including the brim portion 6 of the hat to provide an increased protection from the wire

reinforcement. This would mean that the reinforcement member would be in the shape of a hat brim 6 as claimed. State above, the examiner feels that the thermoplastic resin of Dym would meet the claim as all materials are bendable without fracturing to a degree and the applicant fails to state what degree is claimed. Secondly, Dym does not explicitly state the use of metal, but discloses (pg. 2 Col 1 line 58) that the fabric is made of wire or screen. It would have been obvious to one of ordinary skill in the art to make the fabric out of metal as metal is a commonly used material to make both wire and screen. Any metal chosen would be malleable, ductile, and have plasticity as claimed as no degree of the properties were claimed. Any metal would have those properties to a degree. The examiner feels the material of Dym is capable of being reshaped and reformed by hand.

As to claim 39, it would be inherent that the wire frame of the invention disclosed above would be in a pattern following the contour lines of the brim.

Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dym (US 2,123,275) in view of Wright (US 985,488). Dym discloses the device substantially above. Dym does not teach the reinforcing member being covered on either the top or bottom. Wright illustrates a brim reinforcement member b (Fig. 1) being covered on the top and bottom by as shown in Fig. 3. It would have been obvious to one of ordinary skill in the art to combine the teachings of Dym and Wright to provide a more aesthetically pleasing hat by covering the reinforcement member of Dym with the covering of Wright, as the reinforcement member would be covered by a more appealing covering.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW W. SUTTON whose telephone number is (571)272-6093. The examiner can normally be reached on Monday - Friday 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AWS  
7/15/08

/Gary L. Welch/  
Supervisory Patent Examiner, Art Unit 3765